

2496 US1

REISSUE APPLICATION FOR UNITED STATES LETTERS PATENT,
DECLARATION AND POWER OF ATTORNEY

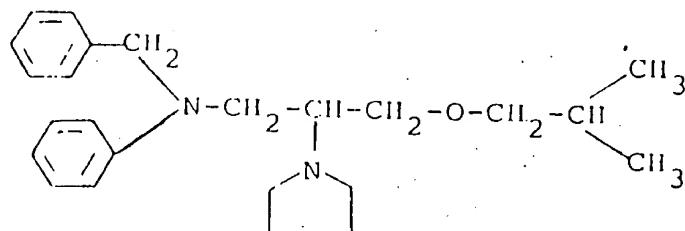


WE, Norbert BUSCH, Jacques SIMOND, André MONTEIL, Jacques MOLEYRE and Roland Yves MAUVERNAY, citizens of FRANCE, residing respectively Le BOUQUET 63410-LOUBEYRAT, 25 Bld Thermal 63400-CHAMALIERES, HLM "Le Patural" Bat. H. Alée 167 63360-GERZAT, 21 rue Sarrazin 63200-MOZAC and 13 rue E. Gilbert 63200RIOM, hereby declare

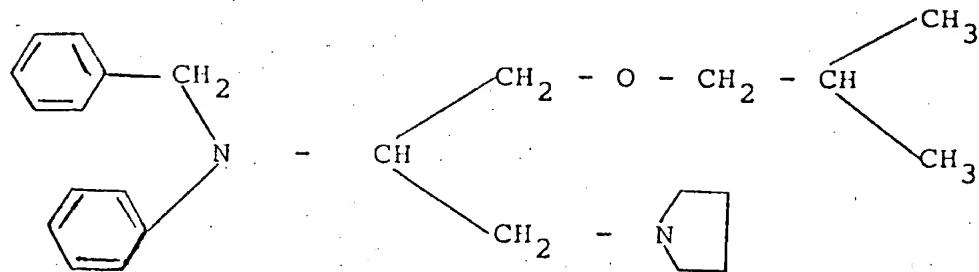
that we verily believe that we are the original, first and joint inventors of the invention described and claimed in Letters Patent No. 3,962,238, issued on June 8, 1976 and in the foregoing specification and for which we solicit a patent; that we do not know and do not believe that said invention was ever known or used before our invention or discovery thereof;

that, while we believe the process for preparing the compounds of the invention is operative, it has now been determined that there may be some question as to the structure of the compounds obtained by said process.

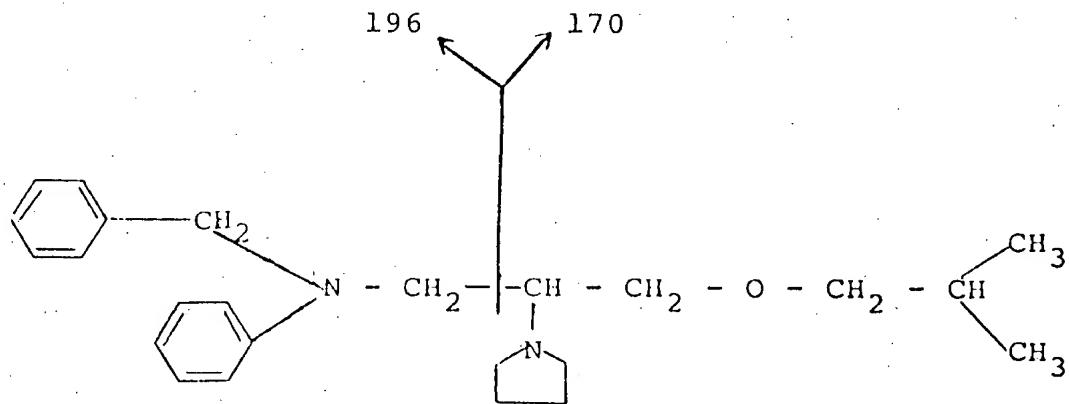
It has been determined, particularly by mass spectroscopic analysis, that the structure of compound 1 of the present invention, resulting from the reaction of 1-(3-isobutoxy-2-chloro)propyl pyrrolidine and N-benzylaniline results in a compound of the following structure



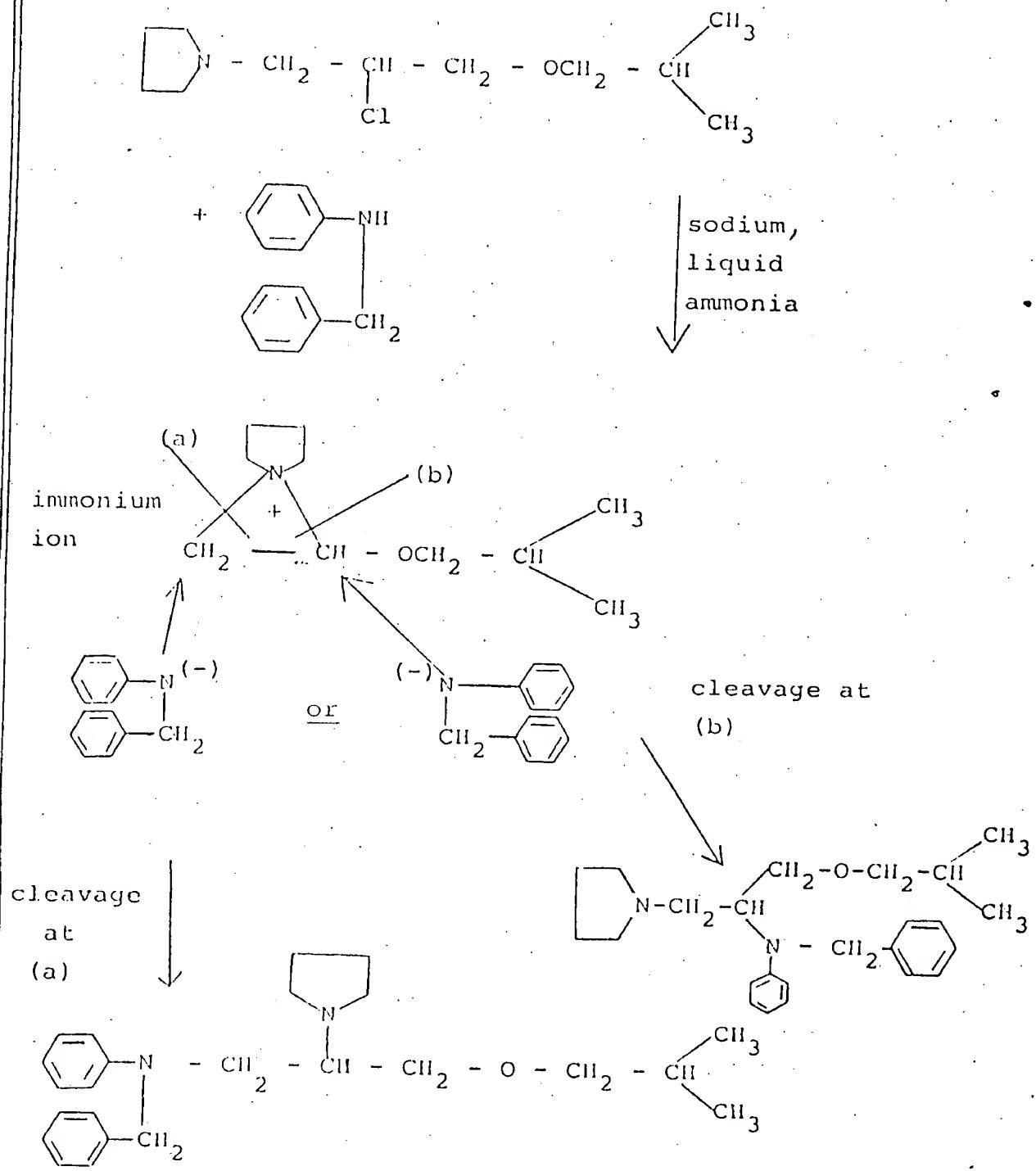
rather than the structure originally disclosed, to wit:



while the molecular weight of compounds of both structures, above, (based on the empirical formula for these compounds being $C_{24}H_{34}N_2O$) is the same, the mass spectral analysis of the compound, as prepared above, shows a weak molecular ion at m/e of 366.2620 (confirming the molecular formula) but, significantly, also shows fragments at m/e 196 ($C_{14}H_{14}N$) and m/e 170 ($C_{10}H_{20}NO$). These fragments can only arise from the former structure, above, to wit:



The mechanism of reaction of the starting compounds most probably proceeds through an intermediate immonium ion which, theoretically could result in two products as shown below:



However, while the products resulting from the process of the present invention have the same utility and most physical analytical data remain unchanged, mass spectral analysis shows the correct structure to have resulted via (a) cleavage.

Consequently, new claims 7 and 8 replace all the granted claims to specifically correct this error and, while the utility and physical constants of the other compounds as originally claimed in the U.S. Patent No. 3,962,238 remain the same, their structural formulae are open to question, and the claims have been restricted to one compound only, originally disclosed in the specification at page 5, through line 21 of page 6 and originally claimed in claim 2 of said U.S. Patent No. 3,962,238. The structure of said compound has been confirmed by mass spectral analysis as indicated above.

In summary, the request for a reissue patent is for the purpose of correcting an inadvertent error which arose without fraudulent or deceptive intention on our part, said error being in the structural formula of the compound made by the example found on pages 5 and 6 of the present invention as noted above, and as claimed in claim 2 of said Letters Patent. The scope of the invention has been limited to a single compound, said compound having been disclosed and claimed in the original U.S. Patent No. 3,962,238.

Further, the scope of the claims 7 and 8 in the present reissue application are not an enlargement of the scope of the claims and are therefore not prohibited by 35 USC 251, last paragraph.

The facts as stated above comply with 37 CFR 1.175 as follows:

- 1) applicants believe that the original patent is inoperativ since said patent does not properly teach the correct structural formula of the compound of the example found in the specification at pages 5 and 6 of the specification and as originally claimed in claim 2 of said patent;

- 2) it is deemed that said patent is inoperative by reason of a defective specification since the structural formula of the compound in the example bridging pages 5 and 6 of the specification was not correct;
- 3) said paragraph (3) of 1.75(a) is not deemed to be applicable to the present invention other than the fact that the structural formula of the compound bridging pages 5 and 6 of the present invention is the only one which has clearly been established. Consequently, the present application has been limited to said compound only as noted in claims 7 and 8.
- 4) applicants are aware of other information relevant to patentability as noted above as concerns the structural formula of the compound disclosed in pages 5 and 6 of the present invention and as supported by the mass spectral analysis data presented in a factual manner as noted above;
- 5) the errors have been specifically denoted in the above factual presentation, particularly with regard to the mass spectral data and the reasoning by means of the proposed mechanism for the formation of the incorrect structure as well as the correct structure, have been clearly elucidated;
- 6) the errors as noted above arose "without any deceptive intention" on the part of the applicants.

If the Examiner so deems, it is respectfully requested that we be permitted to amend the granted patent and be granted a reissue patent. With this petition is an order for a title report, as required in such cases.

The above-described error in Letters Patent No. 3,962,238 arose without any fraudulent or deceptive intention on our part; and the above is a true specification of the error.

We hereby offer to surrender said Letters Patent No. 3,962,238.

We hereby appoint Eric H. Waters, Registration No. 14,739; John G. Schwartz, Registration No. 16,276; and Michael N. Meller, Registration No. 20,779; all of 122 East 42nd Street, New York, New York 10017. (Telephone No. 212-490-1310) and each of them with full power of substitution and revocation to prosecute this application and to transact all business in the Patent Office connected therewith, and we hereby direct that all correspondence be directed to HASELTINE, LAKE & WATERS (Patents) of 122 East 42nd Street, New York, New York 10017.

We, the undersigned, declare further that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

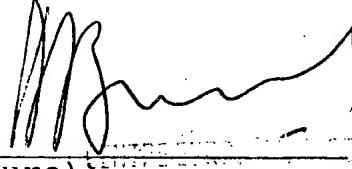
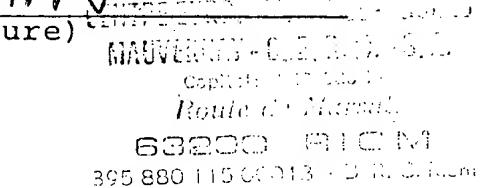
Date: _____

Norbert Busch

Jacques Simard
Duchi' Montal

Jacques Helye
Roland-Yves Milnerway

The assignee of Letters Patent No. 3,962,238 hereby indicates by the signature and seal below, the approval of the filing of this reissue application.


(Signature) 
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Title of Signatoree